

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

EAGLE HARBOR HOLDINGS LLC, and  
MEDIUSTECH LLC,

Case No. 3:11-cv-05503-BHS

## Plaintiffs,

**FIRST AMENDED COMPLAINT  
FOR PATENT INFRINGEMENT  
AND DEMAND FOR JURY TRIAL**

## FORD MOTOR COMPANY.

**Defendant.**

Plaintiffs Eagle Harbor Holdings, LLC and MediusTech, LLC, by and through the undersigned attorneys, hereby bring this First Amended Complaint for patent infringement against Defendant Ford Motor Company, and allege as follows:

## THE PARTIES

1. Eagle Harbor Holdings, LLC (“Eagle Harbor”) is a limited liability company duly organized under the laws of the state of Washington, with its principal place of business at 175 NE Parfitt Way, Suite S140, Bainbridge Island, Kitsap County, WA 98110. It is the owner of U.S. Patents Nos. 6,615,137, 6,629,033, 6,778,073, 7,146,260, 7,778,739, 7,793,136, 8,006,117, 8,006,118, 8,006,119, 8,020,028, and 8,027,268 (the “Patents in Suit”).

FIRST AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT AND DEMAND FOR JURY TRIAL  
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1           2. MediusTech, LLC (“MediusTech”) is a limited liability company duly  
 2 organized under the laws of the state of Washington, with its principal place of business at  
 3 175 NE Parfitt Way, Suite S140, Bainbridge Island, Kitsap County, WA 98110. It is the  
 4 exclusive licensee, from Eagle Harbor, of the Patents in Suit in the field of use in  
 5 automobiles.

6           3. On information and belief, Defendant Ford Motor Company (“Ford”) is a  
 7 Delaware corporation having its principal place of business at 1 American Road, Dearborn,  
 8 MI 48126.

## 10 JURISDICTION AND VENUE

11           4. This is an action for patent infringement arising under the patent laws of the  
 12 United States, Title 35 of the United States Code. This Court has subject matter jurisdiction  
 13 over this action under 28 U.S.C. §§ 1331 and 1338(a).

14           5. Venue is proper in this Federal Court pursuant to 28 U.S.C. §§ 1391(b)-(c)  
 15 and 1400(b) in that a substantial part of the events giving rise to the claims occurred in this  
 16 district and Ford has a regular and established practice of business in this district and has  
 17 committed acts of infringement in this district.

## 20 FACTUAL BACKGROUND

21           6. Eagle Harbor’s predecessor Medius, Inc. (“Medius”) was founded in 2000 by  
 22 Dan Preston to develop technologies in the areas of information systems, communications,  
 23 and computer science. Dan Preston is an inventor of most of the Patents in Suit, and Medius  
 24 was the original assignee of U.S. Patent Nos. 6,615,137, 6,629,033, 6,778,073, 7,146,260,  
 25 and 7,778,739. Eagle Harbor, which was incorporated in 2010, is the successor-in-interest  
 26  
 27  
 28

1 of Medius and the original assignee of U.S. Patent Nos. 7,793,136, 8,006,117, 8,006,118,  
 2 8,006,119, 8,020,028, and 8,027,268.

3       7. From 2002 to 2008, Dan Preston and other Medius personnel engaged in  
 4 numerous meetings and communications with representatives of Ford and Volvo (which was  
 5 then owned by Ford) regarding Medius's automotive systems technology and intellectual  
 6 property. In these meetings and communications, Medius discussed and made presentations  
 7 to Ford and Volvo describing and disclosing Medius's technology in the areas of telematics,  
 8 adaptive cruise control, lane departure warning, automated parking support, multimedia, and  
 9 infotainment.  
 10

11       8. In 2002, in response to a request from Motorola to demonstrate to Ford a  
 12 low-cost adaptive cruise control based on Medius's proprietary technology, Medius  
 13 developed and demonstrated a working prototype of a multi sensor fusion system in support  
 14 of adaptive cruise control. On September 5, 2002, Medius personnel met and communicated  
 15 directly with Ford personnel about Medius, its intellectual property, and its automotive  
 16 technologies, including autonomous and adaptive cruise control, automated parking support,  
 17 and collision warning, mitigation and avoidance. Also in 2002, a former Ford executive  
 18 joined Medius's Board of Advisors.  
 19

20       9. Beginning in 2004 and continuing to 2008, Dan Preston and other Medius  
 21 personnel conducted meetings with and gave presentations to Volvo personnel regarding  
 22 Medius's technology and intellectual property relating to adaptive cruise control, lane  
 23 departure warning, automated parking support, and other automotive systems. On  
 24 information and belief, Volvo provided all of Medius's presentations to Ford.  
 25

1       10. From 2004 until 2008, Medius also conducted meetings and direct  
 2 communications with Ford personnel to discuss Medius's automotive systems technology  
 3 and intellectual property, and Medius directly provided to Ford the presentations it had  
 4 prepared for and delivered to Volvo. For example:

5           a. On July 12, 2004, Medius provided Ford with access to an FTP  
 6 download site containing presentations and technical materials that Medius had prepared for  
 7 and shared with Volvo, and Ford personnel subsequently acknowledged obtaining materials  
 8 from the site;

9           b. On July 20 and 21, 2004, Medius communicated with Ford about its  
 10 automotive systems technology and notified Ford of its U.S. Patent No. 6,615,137;

11           c. On August 20, 2004, Medius communicated with Ford and suggested  
 12 that Ford could directly license Medius's technology;

13           d. On October 1, 2004, Medius provided to Ford a system reference  
 14 presentation describing hardware, software, buses, and system architecture for various  
 15 vehicle applications, including multimedia and infotainment and associated controls and  
 16 consumer interfaces.

17       11. By 2008, Ford halted its direct communications with Medius, although  
 18 Medius's communications with Volvo continued into and beyond 2008.

19       12. No later than January 2009, Medius notified Ford that Ford's automotive  
 20 audio systems, including Ford SYNC, infringed Medius's patents, specifically including one  
 21 of the Patents in Suit, United States Patent No. 6,778,073.

22       13. No later than March 2010, Medius notified Ford that Ford's automotive  
 23 electronics systems, including Ford SYNC, infringed Medius's patents, including five of the

1 Patents in Suit, United States Patent Nos. 6,778,073, 6,629,033, 7,146,260, 7,778,739  
2 (which was then a pending application under notice of allowance, number 11/462,958), and  
3 7,793,136 (which was then a pending application, number 11/616,650).

4       14. Despite these notifications and Medius's education of Ford on the automotive  
5 systems described herein, Ford has refused to license Medius's patents and has continued to  
6 infringe the Patents in Suit by making, selling, offering for sale, and/or actively inducing  
7 others to use in an infringing manner, the automotive systems in Ford, Lincoln, and Mercury  
8 vehicles, as further set forth in this complaint.

9  
10 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,615,137**

11       15. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

12       16. On September 2, 2003, United States Patent No. 6,615,137 ("the '137  
13 patent"), attached as Exhibit A, was duly and legally issued for an invention entitled  
14 "Method and Apparatus for Transferring Information Between Vehicles."

15       17. On information and belief, Ford has infringed and continues to infringe one  
16 or more claims of the '137 patent. Ford is liable for infringing the '137 patent under U.S.C.  
17 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
18 infringing manner, at least Ford, Lincoln, and/or Mercury branded vehicles equipped with  
19 Active Park Assist.

20       21  
22       18. Ford has actual knowledge of the '137 patent and its infringement is willful.

23  
24 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 6,629,033**

25       26  
27       19. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

1       20. On September 30, 2003, United States Patent No. 6,629,033 (“the ‘033  
 2 patent”), attached as Exhibit B, was duly and legally issued for an invention entitled “Open  
 3 Communication System for Real-Time Multiprocessor Applications.”

4       21. On information and belief, Ford has infringed and continues to infringe one  
 5 or more claims of the ‘033 patent. Ford is liable for infringing the ‘033 patent under U.S.C.  
 6 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 7 infringing manner, at least Ford, Lincoln, and/or Mercury branded vehicles equipped with  
 8 Integrated Control System for Stability Control as disclosed in U.S. Patent Application No.  
 9 11/468,598, however branded.

10      22. Ford has actual knowledge of the ‘033 patent and its infringement is willful.

11      **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 6,778,073**

12      23. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

13      24. On August 17, 2004, United States Patent No. 6,778,073 (“the ‘073 patent”),  
 14 attached as Exhibit C, was duly and legally issued for an invention entitled “Method and  
 15 Apparatus for Managing Audio Devices.”

16      25. On information and belief, Ford has infringed and continues to infringe one  
 17 or more claims of the ‘073 patent. Ford is liable for infringing the ‘073 patent under U.S.C.  
 18 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 19 infringing manner, at least Ford, Lincoln, and/or Mercury branded vehicles equipped with  
 20 SYNC and associated head unit and/or instrument panel displays.

21      26. Ford has actual knowledge of the ‘073 patent and its infringement is willful.

22      **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,146,260**

23      27. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

1       28. On December 5, 2006, United States Patent No. 7,146,260 (“the ‘260  
2 patent”), attached as Exhibit D, was duly and legally issued for an invention entitled  
3 “Method and Apparatus for Dynamic Configuration of Multiprocessor System.”

4       29. On information and belief, Ford has infringed and continues to infringe one  
5 or more claims of the ‘260 patent. Ford is liable for infringing the ‘260 patent under U.S.C.  
6 § 271 by making, selling, and/or offering for sale at least Ford, Lincoln, and/or Mercury  
7 branded vehicles equipped with SYNC and associated head unit and/or instrument panel  
8 displays, and/or with MyKey system.

9       30. Ford has actual knowledge of the ‘260 patent and its infringement is willful.

10      **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 7,778,739**

11      31. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

12      32. On August 17, 2010, United States Patent No. 7,778,739 (“the ‘739 patent”),  
13 attached as Exhibit E, was duly and legally issued for an invention entitled “Method and  
14 Apparatus for Dynamic Configuration of Multiprocessor System.”

15      33. On information and belief, Ford has infringed and continues to infringe one  
16 or more claims of the ‘739 patent. Ford is liable for infringing the ‘739 patent under U.S.C.  
17 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
18 infringing manner, at least Ford, Lincoln, and/or Mercury branded vehicles equipped with  
19 SYNC and associated head unit and/or instrument panel displays.

20      34. Ford has actual knowledge of the ‘739 patent and its infringement is willful.

21      **COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 7,793,136**

22      35. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

1       36. On September 7, 2010, United States Patent No. 7,793,136 ("the '136  
 2 patent"), attached as Exhibit F, was duly and legally issued for an invention entitled  
 3 "Application Management System With Configurable Software Applications."

4       37. On information and belief, Ford has infringed and continues to infringe one  
 5 or more claims of the '136 patent. Ford is liable for infringing the '136 patent under U.S.C.  
 6 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 7 infringing manner, at least Ford, Lincoln, and/or Mercury branded vehicles equipped with  
 8 SYNC and associated head unit and/or instrument panel displays.

9       38. Ford has actual knowledge of the '136 patent and its infringement is willful.  
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**COUNT VII: INFRINGEMENT OF U.S. PATENT NO. 8,006,117**

13       39. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

14       40. On August 23, 2011, United States Patent No. 8,006,117 ("the '117 patent"),  
 15 attached as Exhibit G, was duly and legally issued for an invention entitled "Method for  
 16 Multi-tasking Multiple Java Virtual Machines in a Secure Environment."

17       41. On information and belief, Ford has infringed and continues to infringe one  
 18 or more claims of the '117 patent. Ford is liable for infringing the '117 patent under U.S.C.  
 19 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 20 infringing manner, at least Ford and Lincoln branded vehicles equipped with SYNC and  
 21 associated head unit and/or instrument panel displays.

**COUNT VIII: INFRINGEMENT OF U.S. PATENT NO. 8,006,118**

25       42. Plaintiffs reallege and incorporate by reference paragraphs 1-14.  
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1           43. On August 23, 2011, United States Patent No. 8,006,118 (“the ‘118 patent”),  
 2 attached as Exhibit H, was duly and legally issued for an invention entitled “System and  
 3 Method for Application Failure Detection.”

4           44. On information and belief, Ford has infringed and continues to infringe one  
 5 or more claims of the ‘118 patent. Ford is liable for infringing the ‘118 patent under U.S.C.  
 6 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 7 infringing manner, at least Ford and Lincoln branded vehicles equipped with SYNC and  
 8 associated head unit and/or instrument panel displays.

9  
 10 **COUNT IX: INFRINGEMENT OF U.S. PATENT NO. 8,006,119**

11           45. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

12           46. On August 23, 2011, United States Patent No. 8,006,119 (“the ‘119 patent”),  
 13 attached as Exhibit I, was duly and legally issued for an invention entitled “Application  
 14 Management System.”

15           47. On information and belief, Ford has infringed and continues to infringe one  
 16 or more claims of the ‘119 patent. Ford is liable for infringing the ‘119 patent under U.S.C.  
 17 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
 18 infringing manner, at least Ford and Lincoln branded vehicles equipped with SYNC and  
 19 associated head unit and/or instrument panel displays.

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 21 **COUNT X: INFRINGEMENT OF U.S. PATENT NO. 8,020,028**

22           48. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

23           49. On September 13, 2011, United States Patent No. 8,020,028 (“the ‘028  
 24 patent”), attached as Exhibit J, was duly and legally issued for an invention entitled  
 25 “Application Management System for Mobile Devices.”

1       50. On information and belief, Ford has infringed and continues to infringe one  
2 or more claims of the ‘028 patent. Ford is liable for infringing the ‘028 patent under U.S.C.  
3 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
4 infringing manner, at least Ford and Lincoln branded vehicles equipped with SYNC and  
5 associated head unit and/or instrument panel displays.

6

7 **COUNT XI: INFRINGEMENT OF U.S. PATENT NO. 8,027,268**

8       51. Plaintiffs reallege and incorporate by reference paragraphs 1-14.

9       52. On September 27, 2011, United States Patent No. 8,027,268 (“the ‘268  
10 patent”), attached as Exhibit K, was duly and legally issued for an invention entitled  
11 “Method and Apparatus for Dynamic Configuration of Multiprocessor System.”

12       53. On information and belief, Ford has infringed and continues to infringe one  
13 or more claims of the ‘268 patent. Ford is liable for infringing the ‘268 patent under U.S.C.  
14 § 271 by making, selling, offering for sale, and/or actively inducing others to use in an  
15 infringing manner, at least Ford and Lincoln branded vehicles equipped with SYNC and  
16 associated head unit and/or instrument panel displays.

17

18 **JURY DEMAND**

19       54. Pursuant to Rule 38(b) of the Federal Rule of Civil Procedure, Plaintiffs  
20 respectfully request a trial by jury on all issues properly triable by jury.

21

22 **PRAYER FOR RELIEF**

23       55. WHEREFORE, Plaintiffs request entry of judgment in their favor and against  
24 Defendant as follows:

25           a) Declaring that Ford has infringed each and every one of the Patents in Suit;

1           b)     Awarding damages arising out of Ford's infringement of the Patents in Suit,  
2 to Plaintiffs, together with prejudgment and post-judgment interest, in an amount according  
3 to proof;

4           c)     Permanently enjoining Ford and its respective officers, agents, employees,  
5 and those acting in privity with them, from further infringement, including contributory  
6 infringement and/or inducing infringement, of the Patents in Suit, or in the alternative,  
7 awarding a royalty for post-judgment infringement;

8           d)     Declaring that Defendant's infringement of each and every Patent in Suit is  
9 willful and deliberate after Defendant has received notice by means of this Amended  
10 Complaint;

11           e)     Declaring that Defendant's infringement of each and every one of the Patents  
12 in Suit is willful and deliberate, and awarding Plaintiffs increased damages under 35 U.S.C.  
13 § 284;

14           f)     Awarding attorney's fees pursuant to 35 U.S.C. § 285 or as otherwise  
15 permitted by law; and

16           g)     Awarding such other costs and further relief as the Court may deem just and  
17 proper.

18 Dated: October 20, 2011

19           By: /s/ Parker C. Folse, III  
20 Parker C. Folse III (WSBA No. 24895)  
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*Counsel for plaintiffs*

1  
2                   **CERTIFICATE OF SERVICE**  
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4  
5

6                   I hereby certify that on October 20, 2011, I electronically filed the foregoing with the  
7                   Clerk of the Court using the CM/ECF system, which will send notification of such filing to  
8                   all counsel of record who receives CM/ECF notification.

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10                  DATED: October 20, 2011  
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10                  By: /s/ Parker C. Folse, III  
11                  Parker C. Folse III (WSBA No. 24895)  
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